

NORTH DEVON COUNCIL

Minutes of a meeting of Licensing and Community Safety Sub Committee C held at Brynsworthy on Wednesday, 16th October, 2019 at 10.00 am

PRESENT: Members:

Councillor Chesters (Chair)

Councillors Tucker (substitute for Campbell) and Mack (substitute for Luggar)

Officers:

Senior Solicitor/Monitoring Officer (TB), Licensing Service Lead (HB) and Corporate and Community Services Officer (AD)

Also Present:

Environmental Protection and Social Behaviour Officer (KM), and Licensing Officer, Devon and Cornwall Police (PB)

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTERESTS

There were no declarations of interest received.

3. DETERMINATION OF APPLICATION FOR REVIEW OF A PREMISES LICENCE, BUNCH OF GRAPES, 36 HIGH STREET, ILFRACOMBE, DEVON, EX34 9DA

Also present Mr Martin Bayntun, Premises Licence Holder and Freeholder, Mr Michael Dotchon, Lead Consultant for Premises Licence Holder and Jack Zielinski, Manager.

The Chair introduced herself as did the other members of the Sub-Committee and Officers present.

The Senior Solicitor outlined the process for the hearing.

The Licensing Service Lead Officer confirmed all the formal requirements had been met and the application properly made.

The Licensing Service Lead Officer summarised his report, (circulated previously), in respect of the application for the review of a Premises Licence for the Bunch of Grapes, 36 High Street, Ilfracombe, EX34 9DA.

Kate Morne, the Applicant, presented her case as follows:

- On 26th March 2019 a complaint was received shortly after the re-opening of the pub
- The Applicant met with the complainant to discuss the alleged noise complaints, young children trying to sleep were disturbed by breaking glass and loud noise in the rear garden area
- On 25th April 2019 the Applicant met with Mr Barnard who accepted the issues and wanted to address the problems
- Further complaints of noise disturbances were received after this meeting but this time on the High Street, in total three complaints were received. The High Street had a lot of residential properties.
- Monitoring visits had been carried out. There was not a great deal of noise disturbance recorded on the High Street, but there was a great deal of noise emanating from the rear garden area
- Another visit was made to Mr Barnard to discuss this, which did not have an impact on noise disturbance as recordings were still being received
- On 27th June 2019 and with the help of the Devon and Cornwall Licensing Officer a Community Protection Warning letter was issued to Mr Barnard. This warning had several conditions attached to it; not cause a disturbance to other residents by loud music at any time at this address, not permit any shouting, chanting or other unreasonable noise by persons at this address or customers leaving the premises, respond in a reasonable and civil manner to representations that may be made by local residents or officials of this Council or any agency in regard to noise complaints against this address, not allow any glasses outside the front of the premises at any time, and to ensure that the rear garden area was closed by one am
- An action plan was also drawn up between the Police and the proprietors to improve the running of the premises
- All the meetings held with Mr Barnard were positive but due to his inexperience no progress was made
- The Designated Premises Supervisor (DPS) Mr Squires was also a Security Industry Authority registered door supervisor and was not providing support to Mr Barnard as he was working on the door at weekends and was not present at all during the week
- On several occasions phone calls made to the police for assistance with noise disturbance was made by the staff at the Bunch of Grapes
- In August 2019 a breach of the Community Protection Warning took place involving an altercation between females inside the pub, on removing one of the females from the premises disturbance was caused by her banging on windows and doors attempting to re-enter the premises, this took place at 1.30 am on a Monday morning
- None of the complainants wanted their names disclosed for fear of reprisals. One of the complainants left their property in August and was too scared to return
- Social media had played a part in discussions taking place around incidents and indeed still ongoing

- Both Mr Bayntun and Mr Barnard had been engaging and responsive with the Police
- There had been a complete lack of support from Mr Squires (DPS)

In response to a question from the Premises Licence holder about the number of anonymous complaints received, the Applicant advised five in total. The fear of intimidation was not coming from Mr Barnard or necessarily staff at the pub but the clientele visiting the premises. Due to an incident in August all the complainants had withdrawn their complaints.

In response to a question on the date of transfer of the premises to Abbeyvalley Ltd, the Applicant confirmed it was 13th May 2019. The problems had begun in March 2019.

In relation to a question on whether the Applicant could see a situation whereby the pub open without problems the Applicant advised that it was down to the lack of management experience on Mr Barnard's part, not having robust staff and the clientele which had caused the issues.

Representative of the Police, Mr Butler presented his case. He updated the Sub-Committee with the following:

- At the meeting he attended in April with Mr Barnard, Mr Squires, the DPS was not present
- He started correspondence with Mr Bayntun on 17th June 2019
- For the period 1st March 2019 to 31st August 2019 54% of police logs were in connection with the Bunch of Grapes, as were 50% of alcohol related disorder and assaults
- This was a high percentage out of the 11 premises in the town
- Staff had also logged concerns
- Mr Butler was emailed about any incident or crime log recorded at the premises which he would follow up in person with the police officer concerned
- All visits to the premises had been notified to the relevant interested parties listing reasons for the visits.
- Due to retirement Mr Butler was away for August but colleagues kept an eye on events during his absence

In response to a question on clarification of an incident with a car being driven at the pub Mr Butler confirmed it was a male who had been targeted.

Mr Dotchon, Licence Premises Holder representative, asked Mr Butler for clarification on whether Abbeyvalley Limited should have visited the premises sooner. In response Mr Butler answered in two parts. Firstly he referred back to the transcripts of crime logs and how the full picture was not always conveyed. Secondly Mr Butler had been put in a difficult position by Mr Barnard who had informed him of his intention to give up the lease, this happened in September after his report had been written. He had no criticism of Abbeyvalley limited.

In response to a question from Mr Dotchon, whether in his view with a more experienced tenant the Bunch of Grapes might re-open, Mr Butler replied that as well as a good DPS you needed good staff also.

Mr Bayntun, Premises Licence Holder, presented his case.

- He had held a personal licence for 20 years. He had either operated or owned numerous pubs
- Abbeyvalley Limited owned several pubs that were leased out
- They had never experienced a review. This was due to a very rigorous vetting process and well-drawn up leases
- It wasn't until 15th June 2019 that he became aware of the problems at the Bunch of Grapes
- It was accepted there were clear failings at the pub
- Communications he had with Mr Butler and Mr Barnard led him to believe that meetings held were positive and productive
- Mr Bayntun advised Mr Barnard to work with the Police
- Changes at the pub were being made with tighter controls on use of the rear garden and notices being displayed
- Very forthright letters were sent to Mr Barnard who was put on notice with the forfeit of his lease the penalty if the situation wasn't rectified
- It was unfortunate that someone so inexperienced and with no personal licence had been given the lease which they had inherited when they purchased the pub
- They have accepted Mr Barnard's breaking of the lease as he clearly could not manage a pub
- Going forward only a tenant with qualifications, management abilities and competence would be given a lease and physical changes to the premises would be made
- The current premises licence had 67 conditions attached to it and not all of them were being adhered to. These conditions were basic which any experienced Landlord would be aware of
- Abbeyvalley Limited had along with the authorities put Mr Barnard under considerable pressure to carry out the changes needed
- If run well the pub could be successful like another pub they owned in Ilfracombe

Mr Dotchon requested that the Sub-Committee formally accepted the submission dated 8th October 2019.

In response to a question about how they saw the pub going forward and how they felt about the opening hours being shortened Mr Bayntun replied he would like the Sub-Committee to give Abbeyvalley Limited and the Bunch of Grapes a chance, the licence had not been the cause of the problems. He could see it as a town centre pub well run and although challenging having longer opening hours he didn't feel drawing back the hours was necessary. To have the DPS doubled up as the door security was wrong and had been part of the problems.

In response to a question about potential lessees and what assurances could be given on how good they were Mr Bayntun replied that only experienced tenants would be considered and finances had to be sufficient to stock the pub.

In response to a question on how this pub would offer anything different compared to the others in town Mr Bayntun replied the pub was more of a locals pub and the late licence fulfilled a need for the residents of the town. The pub was a grade II listed building and unique.

In response to a question on how smoking would be managed at the front of the pub when the rear garden shut at 11 pm Mr Bayntun replied, that this would be achieved by having good signage, good management and good customers.

The Applicant summed up. The Environmental Protection Team could discuss activities with any new tenant before they went ahead.

The Licensing Service Lead Officer summed up.

RESOLVED, that everyone be excluded from the meeting with the exception of Members, the Senior Solicitor and Committee Clerk in order for the Sub-Committee to receive legal advice in accordance with Paragraph 5 of Schedule 12A of the Local Government Act 1972.

RESOLVED, that everyone be re-admitted to the meeting.

The Chairman requested that the Committee Clerk read the proposed decision, which was voted upon and agreed.

RESOLVED, that the proposals put forward by the Premises Licence-holder are incorporated into the terms of the premises licence in respect of the Bunch of Grapes, 36 High Street, Ilfracombe, EX34 9DA and the following conditions be imposed:

- (a) The existing CCTV shall be upgraded to ensure coverage of the front curtilage and the exit of the premises and recordings shall be kept for 28 days;
- (b) Printed signs which are clearly visible shall be put in place, as follows:
 - (i) At the front entrance advising customers to leave quietly and to respect the neighbours, and not to take glasses outside
 - (ii) Outlining the drugs policy
 - (iii) Outlining the policy on re-admissions
 - (iv) Informing customers of the challenge 21 policy
 - (v) Stipulating no alcohol be served during 30 minute drinking-up period
 - (vi) In customer toilets stating zero tolerance drug policy

- (vii) At entrance to rear patio advising customers not to be noisy when using patio area and that the patio will be closed at 11:00 pm
- (c) A designated area shall be set aside behind the bar to store important management documents, including the health and safety file, the fire safety file, the staff training records, the incident and accident report book, the written drug and age verification policy and toilet check logs
- (d) Door/security staff shall be SIA registered, and shall be employed separately from the DPS and bar staff, they will sign a register will shall be available on request
- (e) A written policy for the regular checking of toilets for drug misuse shall be maintained, and a log kept of the checks made
- (f) There shall be a 30 minute drinking up period before the closing times, during which no alcohol may be served or customers re-admitted
- (g) Customer dispersal shall be actively managed by security or bar staff during the 30 minute drinking up period
- (h) Adam Squires shall be removed from his position as DPS
- (i) All licensing activities shall cease at midnight on each evening and the premises shall be closed by 12.30 am

In considering the review of the premises licence, the Sub-Committee made the following findings:

- Between March 2019 and August 2019, there was a considerable body of evidence to the effect that those persons responsible for the management of the Bunch of Grapes, Ilfracombe have failed to promote the licensing objectives in an acceptable manner. Accordingly, there have been disproportionately high levels of crime and disorder and public nuisance in and around the premises, and concerns for public safety
- It was unnecessary to set out in full, or even in summary, any of a number of individual incidents associated with the premises, because the premises licence-holder had acknowledged the following in the 'Executive Summary' of his written representation:
 - (a) There were serious failures in the operation of the Bunch of Grapes between March 2019 and August 2019
 - (b) Inadequate management by the tenant and the DPS resulted in an unacceptable number of crime and disorder incidents, public safety concerns and noise disturbance outside of the pub
 - (c) The failings were directly attributable to poor and inadequate management
- Had the premises licence-holder not acknowledged the shortcomings in the management of the premises in recent months, and had he proposed to continue to operate the premises in the same manner, without significant alteration, the Sub-Committee was of the opinion that the gravity of the incidents reported and the scant

- regard paid to the licensing objectives would have justified either the suspension or the revocation of the premises licence
- However, as the premises were currently closed, and the premises licence-holder had proposed a number of positive measures to address the problems, the Sub-Committee took the view that neither the suspension nor the revocation of the premises licence was necessary as an outcome of this review application
 - What the Sub-Committee had to decide was whether the voluntary scheme of action which the premises licence-holder had indicated he would undertake was sufficient to ensure that the licensing objectives were promoted to the standard expected by the licensing authority. It was the premises licence-holder's submission that the licensing authority need do nothing more than issue a warning and make recommendations for improvement
 - The Sub-Committee was not satisfied, however, that the making of recommendations alone will ensure that crime and disorder, public nuisance and threats to public safety are minimised at the Bunch of Grapes. The premises licence-holder had conceded, in Paragraph 5 of his submissions, that despite the efforts made to change the tenant's approach to managing the premises, "there is strong evidence that management controls remained inadequate and that Premises Licence conditions were not always adhered to."
 - Where licensing objectives were not promoted at a licensed premises, the ultimate responsibility rests with the Premises Licence-holder, whatever the commercial arrangements which exist in relation to the premises. The Premises Licence-holder had been made aware of the difficulties at the premises (such as by the issue of the Community Protection Notice Warning letter) but had not taken effective action to mitigate those difficulties
 - Most importantly, the Sub-Committee believed that in order to achieve the licensing objectives it was necessary in these circumstances to amend the hours during which licensable activities may take place.

Chairman

The meeting ended at 12.40 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.

